

Table 2.1-1

Chemical-Specific ARARs for Remedial Action at the Portland Harbor Superfund Site

Portland Harbor Superfund Site

Portland, Oregon

Medium	Regulation/Citation	Criterion/Standard	Comments
Protection of surface water	Clean Water Act, 33 USC 1313 and 1314 (Sections 303 and 304). Most recent 304(a) list of recommended water quality criteria, as updated up to issuance of the ROD	Under CWA Section 304(a), EPA develops recommended water quality criteria for water quality programs established by states. Two kinds of water quality criteria are developed: one for protection of human health, and one for protection of aquatic life. CWA §303 requires States to develop water quality standards based on Federal water quality criteria to protect existing and attainable use or uses (e.g., recreation, public water supply) of the receiving waters.	The most recent 304(a) recommended water quality criteria are relevant and appropriate for cleanup standards for surface water and contaminated groundwater discharging to surface water if more stringent than promulgated state criteria. Relevant and Appropriate as criterion to apply to limit short-term impacts from dredging and capping if more stringent than promulgated state criteria. Relevant and Appropriate as criterion to apply to point source discharges that may occur in implementing the remedy, if applicable.
Protection of potential drinking water sources	Safe Drinking Water Act, 42 USC 300f, 40 CFR Part 141, Subpart O, App. A. 40 CFR Part 143	Establishes Maximum Contaminant Level Goals (MCLGs) and Maximum Contaminant Levels (MCLs) to protect human health from contaminants in drinking water.	Relevant and Appropriate as cleanup standards for groundwater and surface water at Portland Harbor, which are potential drinking water sources.
Measure of protectiveness of human health and the environment in all media	Oregon Environmental Cleanup Law ORS 465.315(b)(A). Oregon Hazardous Substance Remedial Action Rules OAR 340-122-0040(2)(a) and (c), 0115(2-4).	Sets standards for degree of cleanup required for hazardous substances. Establishes acceptable risk levels for human health at 1×10^{-6} for individual carcinogens, 1×10^{-5} for multiple carcinogens, and Hazard Index of 1 for noncarcinogens.	The final selected remedy will achieve these applicable human health carcinogen and noncarcinogen risk levels by implementation of dredging, capping, enhanced natural recovery, monitored natural recovery, on or off-site disposal, implementation of institutional controls and other response actions set forth in the ROD.
Protection of surface water	Water Pollution Control Act ORS 468B.048. State-wide Numeric water quality criteria set forth in OAR Part 340, Division 41, including, Toxic Substances criterion at OAR Part 340-41-0033 (Tables 30 and 40), and Designated Uses for the Willamette Basin and Numeric Water Quality Criteria specified for the Willamette Basin at OAR 340-041-340 and 340-041-0345	DEQ is authorized to administer and enforce CWA program in Oregon. The state has promulgated numeric water criteria, both criteria that applies state-wide and specific Willamette Basin criteria promulgated to protect Willamette Basin designated beneficial uses.	Oregon's numeric toxics water quality standards (Tables 30 and 40) are applicable requirements as cleanup standards for surface water to the extent they are more stringent than Clean Water Act 304(a) recommended criterion. All state promulgated numeric water quality criteria are applicable standards of control on discharges to state waters during the implementation of remedial actions, such as setting limits on short-term impacts from dredging and capping, and limits on point source discharges that may occur in implementing the remedy. Oregon's numeric criteria are relevant and appropriate as cleanup standards for groundwater

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Action-Specific ARARs for Remedial Action at the Portland Harbor Superfund Site

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Action	Regulation/Citation	Criterion/Standard	Comments
Actions that discharge dredged or fill material into navigable waters	Clean Water Act, Section 404 and Section 404(b)(1) Guidelines, 33 USC 1344, 40 CFR Part 230	CWA §404 regulates the discharge of dredged or fill material into waters of the U.S., including return flows from such activity. This program is implemented through regulations set forth in the 404(b)(1) guidelines, 40 CFR Part 230. The guidelines specify the types of information and environmental conditions that need to be evaluated for impacts on the aquatic ecosystem and provides guidelines for compensatory mitigation when there will be an unavoidable impacts to waters of the US.	Applicable criteria and guidelines for selecting in-water disposal sites and to evaluating impacts from dredging, capping, enhanced monitored natural recovery, and in-situ treatment of sediments that will occur in implementing the remedy. Through the analysis of impacts required by Section 404, controls on dredging and capping, including return flows, and the design and construction of an on-site CDF will be developed to minimize or avoid the impacts. Also through 404 analysis, compensatory mitigation for unavoidable loss of aquatic habitat will be developed during remedial design and constructed during remedial implementation.
Actions that discharge pollutants to waters of U.S.	Clean Water Act, Section 402, 33 USC 1342	Regulates discharges of pollutants from point sources to waters of the U.S., and requires compliance with the standards, limitations and regulations promulgated per Sections 301, 304, 306, 307, 308 of the CWA. CWA §301(b) requires all direct dischargers to meet technology-based requirements. These requirements include, for conventional pollutants, application of the best conventional pollutant control technology (BCT), and for toxic and nonconventional pollutants, the best available technology economically achievable (BAT). Where effluent guidelines for a specific type of discharge do not exist, BCT/BAT technology-based treatment requirements are determined on a case-by-case basis using best professional judgment (BPJ). Once the BPJ determination is made, the numerical effluent discharge limits are derived by applying the levels of performance of a treatment technology to the wastewater discharge.	Relevant and Appropriate to remedial activities that result in a point source discharge of pollutants to the river if more stringent than state promulgated point source requirements.
Actions that discharge pollutants to waters of U.S.	Clean Water Act, 33 USC 1341, (Section 401), 40 CFR Section, 121.2(a)(3), (4) and (5) Also see OAR 340-048-0015 "When Certification Required" pursuant to Oregon state law.	Any federally authorized activity which may result in any discharge into navigable waters requires reasonable assurances that the activity will be conducted in a manner which will not violate applicable water quality standards by the imposition of any effluent limitations, other limitations, and monitoring requirements necessary to assure the discharge will comply with applicable provisions of sections 1311, 1312, 1313, 1316, and 1317 of the Clean Water Act. Oregon administrative rule OAR 340-048-0015, Provides that federally-approved activities that may result in a discharge to waters of the State requires evaluation whether an activity may proceed and meet water quality standards with conditions, which if met, will ensure that water quality standards are met.	Relevant and Appropriate requirement, if more stringent than state implementation regulations, that in-water response actions that result in a discharge of pollutants comply with water quality standards through the placement of water quality-based conditions and other requirements on the discharge deemed necessary. The applicable state regulations require reasonable assurance that any discharge to state waters will comply with state water quality standards. Implementation of the remedial action (e.g., dredging, capping, and construction of confined disposal facility) will result in a discharge to waters of the State, thus, conditions and other requirements deemed necessary will be placed on the discharge.
Actions resulting in discharges to waters of the State of Oregon, including removal and fill activities	ORS 468B.025 - State water quality standards established by rule: OAR 340-041-0002 through 0059, and Willamette Basin Designated Uses and Basin-specific water quality standards at OAR 340-041-340 and OAR 340-041-345.	ORS 468B.025 prohibits pollution of any waters of the state and prohibits the discharge of any wastes into state waters if the discharge reduces the quality of the water below state water quality standards.	All state-wide and Willamette Basin-specific water quality standards, including numeric, narrative, and designated uses, are applicable requirements for any discharges to surface water from point sources and activities that may result in discharges to waters of the state, such as dredge and fill, capping, de-watering sediments, construction and operation of an on-site CDF. All state-wide and Willamette Basin-specific water quality standards are relevant and appropriate to measuring effectiveness of controls on contaminated groundwater discharging to the Willamette River.
Actions resulting in discharges from removal and fill activities	ORS 196.825(5) -Statutory requirement to mitigate for expected adverse effects of removal and fill activities. Applicable substantive mitigation rules are: OAR 141-085-510, 141-085-680, 141-085 0685, 141-085-0690, 141-085-0710, 141-085-715.	State substantive requirements for mitigation for the reasonably expected adverse effects of removal or fill in a project development in waters of the state, including in designated Essential Indigenous Anadromous Salmonid Habitat.	Applicable compensatory mitigation standards and requirements for impacts from dredge and fill activities, capping, and riverbank remediation. The Site includes Essential Indigenous Anadromous Salmonid Habitat and the listed state regulations contain specific habitat mitigation standards not found in CWA Section 404 regulations for reasonably expected adverse effects of the dredging, capping, construction and operation of the CDF.

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Actions in federal navigation channels	River and Harbors Act, Section 10, 33 USC Section 403. 33 CFR Section 322(e), 33 CFR Section 323.3 and Section 323.4(b) and (c).	The creation of any obstruction not affirmatively authorized by Congress, to the navigable capacity of any of the waters of the United States is prohibited; and it shall not be lawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States, outside established harbor lines. Placing of aids to navigation in navigable waters is under the purview of Section 10, and must meet requirements of the U.S. Coast Guard (33 CFR 330.5(a)(1)) See 33 CFR 322(e). If any discharge of dredged or fill material contains any toxic pollutant listed under section 307 of the CWA such discharge shall require compliance with Section 404 of the CWA. See 33 CFR Section 323.4(b). Placement of pilings, or discharge of dredged material that where the flow or circulation of waters of the United States may be impaired or the reach of such waters reduced must comply with Section 10.	Applicable requirement for how remedial actions are taken or constructed in the navigation channel. Applicable to the use of aids to navigation as institutional controls for maintaining the integrity of the selected remedy or placement of pilings or discharge of dredged material that may impair the flow or circulation of waters or reach of such waters.
Actions generating pesticide residue	Hazardous Waste and Hazardous Materials II. Identification and Listing of Hazardous Waste OAR 340-101-0033(6) and (7); OAR 340-100-0010(j); and OAR 340-109-0010(3) and (4)	Identifies and defines pesticide residue as a hazardous waste under state law, but which is not subject to land disposal restrictions.	Relevant and appropriate to identifying dredged materials that would meet the definition of pesticide residue that cannot be disposed of in the CDF in accordance with the disposal criteria. Applicable to characterizing dredged material as hazardous waste for off-site disposal.
Action disposing of dredged material in on-site CDF	OAR 340-095-0010(3), OAR 340-095-20(7, 10, 11-15, 17, 18, 21, 22); OAR 340-095-0030(5), and OAR 340-095-0070(2).	Substantive State of Oregon solid waste disposal requirements related to the location, design, construction/operation, and closure of a non-municipal land disposal site. Specific construction/operating requirements include: Drainage Control, FloodPlains, Cover material, Cover frequency, Access Roads, Access Control, Site Screening, Truck Washing, Signs, Litter Vector, and Bird Control.	Relevant and appropriate regulations for the on-site CDF. Although a CDF is not a land disposal site, the listed solid waste regulatory requirements for the location (floodplains), construction/operating, design (surface drainage control), and closure (final cover, restoration, and surface water management) of a non-municipal land disposal site have been found to be relevant and appropriate to the CDF.
Actions handling PCB remediation wastes and PCB containing material	Toxic Substances Control Act, 15 USC §2601 et seq., 40 CFR Part 761.60-761.79 and OAR 340-110-0065(2)	Establishes requirements for handling, storage, and disposal of PCB-containing materials, including PCB remediation wastes, and sets performance standards for disposal technologies for materials/wastes with concentrations in excess of 50 mg/kg. Establishes decontamination standards for PCB contaminated debris. Oregon PCB regulations regarding the storage for disposal of PCB and PCB items also require the owners or	TSCA decontamination and disposal requirements are applicable to the disposal of contaminated material, debris, or surface water with PCB contamination over 50 mg/kg in concentration.
Risk-based limits protective of human health for air emissions associated with soil or sediment removal	Clean Air Act, 40 CFR Parts 50 and 52	Places restrictions on air emissions from stationary and mobile sources that creates threats to human health as defined in the regulations and which may be generated from equipment used to construct the remedy.	These regulations are Relevant and Appropriate to evaluating how emissions may be minimized or reduced during construction of the remedy.
Actions generating air emissions	Oregon Air Pollution Control ORS 468A et. seq., General Emissions Standards OAR 340-226	DEQ is authorized to administer and enforce Clean Air program in Oregon. Rules provide general emission standards for fugitive emissions of air contaminants and require highest and best practicable treatment or control of such emissions.	Applicable to remedial actions taking place in on-site uplands. Could apply to earth-moving equipment, dust from vehicle traffic, and mobile-source exhaust, among other things.
Actions generating air emissions	Fugitive Emission Requirements OAR 340-208	Prohibits any handling, transporting, or storage of materials, or use of a road, or any equipment to be operated, without taking reasonable precautions to prevent particulate matter from becoming airborne. These rules for "special control areas" or other areas where fugitive emissions may cause nuisance and control measures are practicable.	Applicable to remedial actions taking place in on-site uplands. Could apply to earth-moving equipment, dust from vehicle traffic, and mobile-source exhaust, among other things.
Actions that may alter waterbodies and that may effect fish and wildlife	Fish and Wildlife Coordination Act. 16 USC 662, 663 50 CFR 6.302(g)	Requires federal agencies to consider effects on fish and wildlife from projects that may alter a body of water and mitigate or compensate for project-related losses, which includes discharges of pollutants to water bodies.	Potentially applicable to determining impacts and appropriate mitigation, if necessary, for effects on fish and wildlife from filling activities or discharges from point sources.
Actions that may affect ESA listed and State protected fish and wildlife species	ODFW Fish Management Plans for the Willamette River. OAR 635, div 500	Provides basis for in-water work (dredging and filling) windows in the Willamette River.	Potentially applicable to placing restrictions on when dredging and filling can occur in the Willamette River due to presence of ESA listed and state protected species at the site.
Actions that may affect marine mammals	Marine Mammal Protection Act. 16 USC §1361 et seq. 50 CFR 216	Imposes restrictions on the taking, possession, transportation, selling, offering for sale, and importing of marine mammals.	Potentially applicable to response actions that could harm marine mammals in the Willamette River and may require best management practices be used for observing and avoiding contact with such species during construction of the remedy.
Actions that may affect migratory birds	Migratory Bird Treaty Act. 16 USC §703 50 CFR §10.12	Makes it unlawful to take any migratory bird. "Take" is defined as pursuing, hunting, wounding, killing, capturing, trapping and collecting.	Potentially applicable to response actions that could harm migratory birds using the Willamette River and may require use of best management practices for observing and avoiding contact with such species during construction of the remedy.

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Action-Specific ARARs for Remedial Action at the Portland Harbor Superfund Site

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Action	Regulation/Citation	Criterion/Standard	Comments
On-site actions that involve generating, handling and disposal of hazardous waste	OAR 340-100-0001(3) and OAR 340-100-0002(1)	Oregon has adopted and incorporates by reference the federal RCRA hazardous waste management program. Oregon adopted the federal Hazardous Waste Identification Rule that provides for an exclusion for dredged materials subject to the requirements of a permit under the Clean Water Act or the Marine Protection, Research, and Sanctuaries Act from RCRA Subtitle C.	Oregon's hazardous waste and materials regulations are applicable to the generation, storage, handling, treatment and disposal of hazardous waste on-site and slated for off-site disposal. Oregon's hazardous waste identification rule exempts handling and on-site disposal of dredged materials subject to the requirements of a permit under the Clean Water Act or Marine Protection, Research, and Sanctuaries Act.
Actions generating solid wastes or hazardous wastes for disposal in CDF or for off-site disposal	Solid waste defined in 40 CFR 261.2. Determining if solid waste is hazardous per 40 CFR § 262.11(a-c) and OAR 340-102-0011 - Hazardous Waste Determination	<p>Must determine if solid waste (residue as defined in OAR 340-100-0010) is a hazardous waste using the following method:</p> <ul style="list-style-type: none"> • Should first determine if waste is excluded from regulation under 40 CFR261.4; and • Must then determine if waste is listed as a hazardous waste under subpart D 40 CFR part 261 or whether the waste is (characteristic waste) identified in subpart C of 40 CFR part 261 by either: <ul style="list-style-type: none"> (1) Testing the waste according to the methods set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator under 40 CFR §260.21; or (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used. Additionally, Oregon has promulgated its own hazardous waste determination regulation: "(1) The provisions of this rule replace the requirements of 40 C.F.R. Sec. 262.11. <p>(2) A person who generates a residue as defined in OAR 340-100-0010 must determine if that residue is a hazardous waste using the following method:</p> <p>(a) Persons should first determine if the waste is excluded from regulation under 40 C.F.R. Sec. 261.4 or OAR 340-101-0004;</p> <p>(b) Persons must then determine if the waste is listed as a hazardous waste in Subpart D of 40 C.F.R. Part 261;</p> <p>(c) Persons must then determine if the waste is listed under the following listings:</p> <p>(A) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates identified in 340-102-0011(2)(c)(A)(i) and (ii) are added to and made a part of the list in 40 C.F.R. Sec. 261.33(e).</p> <p>(i) P998...Blister agents (such as Mustard agent)</p> <p>(ii) P999...Nerve agents (such as GB (Sarin) and VX); or</p> <p>(B) Hazardous waste identified in OAR 340-102-0011(2)(c)(B)(i) and (ii) are added to and made a part of the list in 40 C.F.R. Sec. 261.31.</p> <p>(i) F998...Residues from demilitarization, treatment, and testing of blister agents (such as Mustard agent).</p> <p>(ii) F999...Residues from demilitarization, treatment, and testing of nerve agents (such as GB (Sarin) and VX).</p> <p>NOTE: Even if the waste is listed, the person still has an opportunity under OAR 340-100-0022 to demonstrate to the Commission that the waste from their particular facility or operation is not a hazardous waste.</p> <p>(d) Regardless of whether a hazardous waste is listed through application of subsections (2)(b) or (2)(c) of this rule, persons must also determine whether the waste is hazardous under Subpart C of 40 C.F.R. Part 261 by either:</p> <p>(A) Testing the waste according to the methods set forth in Subpart C of 40 C.F.R. Part 261, or according to an equivalent method the Department approves under OAR 340-100-0021, or</p> <p>NOTE: In most instances, the Department will not consider approving a test method until the EPA approves it.</p> <p>(B) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used."</p>	Hazardous waste characterization and determination is applicable to for off-site disposal. Hazardous waste identification criteria is being applied as relevant and appropriate to dredged materials to be disposed of in the CDF per the disposal criteria established for the CDF.
Actions generating dredged material hazardous waste	40 CFR § 261.4(g)	Dredged material that is subject to the requirements of Section 404 of the CWA is not a hazardous waste for purposes of regulation under RCRA.	The exemption is applicable to the dredging, in-situ treatment, handling, storage or other on-site activities of dredged materials that are being managed in accordance with Section 404 analysis and approvals.

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Action-Specific ARARs for Remedial Action at the Portland Harbor Superfund Site

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Action	Regulation/Citation	Criterion/Standard	Comments
Actions generating RCRA hazardous waste that will be disposed of in a permitted off-site disposal facility	40 CFR § 264.13(a)(1)	Must obtain a detailed chemical and physical analysis on a representative sample of the waste(s), which at a minimum contains all the information that must be known to treat, store, or dispose of the waste in accordance with pertinent sections of 40 CFR 264 and 268.	This requirement is applicable to characterizing dredged materials for off-site disposal.
Actions generating RCRA hazardous waste	40 CFR § 268.7(a)(1)	Must determine if the hazardous waste has to be treated before land disposed. This is done by determining if the waste meets the treatment standards in 40 CFR 268.40, 268.45, or 268.49 by testing in accordance with prescribed methods or use of generator knowledge of waste. This determination can be made concurrently with the hazardous waste determination required in 40 CFR 262.11. Must comply with the special requirements of 40 CFR § 268.9 in addition to any applicable requirements in 40 CFR § 268.7.	This requirement is applicable to characterizing and treating dredged materials slated for off-site disposal.
Actions generating RCRA hazardous waste	40 CFR § 268.9(a)	Must determine each EPA Hazardous Waste Number (waste code) applicable to the waste in order to determine the applicable treatment standards under 40 CFR 268 et seq. This determination may be made concurrently with the hazardous waste determination required in Sec. 262.11 of this chapter. Must determine the underlying hazardous constituents [as defined in 40 CFR 268.2(i)] in the characteristic waste.	This requirement is applicable to characterizing and treating dredged materials slated for off-site disposal.
Actions generating industrial wastewater	40 CFR § 261.4(a)(2)	under section 402 of the CWA, as amended, are not solid wastes for the purpose of hazardous waste management. [Comment: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.]	This requirement is applicable to wastewater generated by the remedy that will be discharged from a point source in accordance with Section 402 of the CWA.
Actions requiring temporary storage of hazardous waste	OAR 340-102-0034 40 CFR § 262.34(a); 40 CFR §262.34(a)(1)(i); 40 CFR § 262.34(a)(2) and (3) 40 CFR § 262.34(c)(1)	A generator may accumulate hazardous waste at the facility provided that (accumulation of RCRA hazardous waste on site as defined in 40 CFR §260.10) : • waste is placed in containers that comply with 40 CFR 265.171–173; and • the date upon which accumulation begins is clearly marked and visible for inspection on each container; • container is marked with the words “hazardous waste”; or • container may be marked with other words that identify the contents if accumulation of 55 gal. or less of RCRA hazardous waste or one quart of acutely hazardous waste listed in §261.33(e) at or near any point of generation Oregon hazardous waste regulations further require: (1) In addition to the requirements of 40 CFR 262.34, a generator may accumulate hazardous waste on-site for 90 days or less without a permit provided that, if storing in excess of 100 containers, the waste is placed in a storage unit that meets the Accumulation requirements of 40 CFR 264.175 and (2) A generator shall comply with provisions found in 40 CFR, Part 262 and each applicable requirement of 40 CFR 262.34(a), (b), (c), (d), (e), and (f).	This requirement is applicable to temporary storage of hazardous waste at an on-site transloading facility.
Actions resulting in the storage of solid waste	OAR 340-093-0210 and 0220	State of Oregon solid waste general provisions regarding storage and collection of solid waste and transportation related requirements for trucks servicing a solid waste collection facility.	Applicable requirements to operation of an on-site transloading facility for dredged materials slated for off-site disposal.
Actions resulting in the storage of solid waste	OAR 340-095-0010, 0020, 0030, 0050(1) & (2), 0070(2)	State of Oregon solid waste regulations for solid waste land disposal sites other than municipal solid waste landfills. Specifically, regulations related to the location siting, operating criteria, design criteria, groundwater monitoring and closure requirements for a non-municipal solid waste landfill.	Applicable requirements to the siting, design, operation and closure of an on-site transloading facility for dredged material slated for off-site disposal.
Actions transporting hazardous materials	49 CFR 171.1(c)	Any person who, under contract with a department or agency of the federal government, transports “in commerce,” or causes to be transported or shipped, a hazardous material shall be subject to and must comply with all applicable provisions of the HMTA and HMR at 49 CFR 171 - 180 related to marking, labeling, placarding, packaging, emergency response, etc.	Applicable to transportation of hazardous materials.

Table 2.1-2**Action-Specific ARARs for Remedial Action at the Portland Harbor Superfund Site**

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Action	Regulation/Citation	Criterion/Standard	Comments
Actions that involve storage and treatment of hazardous waste at the transloading facility	40 CFR Part 264, Subparts B, C, F, G, I, J, K, L, M, AA, BB, CC, and DD	These regulations provide standards for location, design, operation, and closure of units in which treatment of hazardous waste may occur at the transloading facility. These regulations also provide requirements for use and management of containers, tank systems, surface impoundments, waste piles, and land treatment units one or more of which may be used for the storage and treatment of hazardous waste at the transloading facility. Subparts AA, BB, and CC provide air emission standards for process vents, equipment leaks, and tanks, surface impoundments and containers may be used at the transloading facility.	Requirements of Part 264 are applicable to the siting, design, operation, and closure of any containers, tank systems, surface impoundments, waste piles or land treatment areas used for the storage (over 90 days) and/or treatment of hazardous waste on-site prior to disposal off-site. The specific storage system and treatment methods that may be employed at the on-site transloading facility will be determined during remedial design.

Table 2.1-3**Location-Specific ARARs for Remedial Action at the Portland Harbor Superfund Site**

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Location	Regulation/Citation	Criterion/Standard	Comments
Presence of archaeologically or historically sensitive area	Native American Graves Protection and Reparation Act, 25 USC 3001-3013, 43 CFR 10	Requires Federal agencies and museums which have possession of or control over Native American cultural items (including human remains, associated and unassociated funerary items, sacred objects and objects of cultural patrimony) to compile an inventory of such items. Prescribes when such Federal agencies and museums must return Native American cultural items. "Museums" are defined as any institution or State or local government agency that receives Federal funds and has possession of, or control over, Native American cultural items.	If Native American cultural items are present on property belonging to the Oregon Division of State Lands (DSL) that is a part of the response action area, this requirement is potentially applicable. If Native American cultural items are collected by an entity which is either a federal agency or museum, then the requirements of the law are potentially applicable.
Presence of archaeologically or historically sensitive area	Indian Graves and Protected Objects ORS 97.740-760	Prohibits willful removal of cairn, burial, human remains, funerary object, sacred object or object of cultural patrimony. Provides for re-interment of human remains or funerary objects under the supervision of the appropriate Indian tribe. Proposed excavation by a professional archaeologist of a native Indian cairn or burial requires written notification to the State Historic Preservation Officer and prior written consent of the appropriate Indian tribe. Prohibits persons from excavating, injuring, destroying or damaging archaeological sites or objects on public or private lands unless authorized.	Potentially relevant and appropriate if archaeological material is encountered.
Presence of archaeologically or historically sensitive area	Archaeological Objects and Sites ORS 358.905- 955 ORS 390.235	Imposes conditions for excavation or removal of archaeological or historical materials.	Potentially relevant and appropriate if archaeological material encountered.
Presence of archaeologically or historically sensitive area	National Historic Preservation Act. 16 USC 470 et seq. 36 CFR Part 800	Requires the identification of historic properties potentially affected by the agency undertaking, and assessment of the effects on the historic property and seek ways to avoid, minimize or mitigate such effects. Historic property is any district, site, building, structure, or object included in or eligible for the National Register of Historic Places, including artifacts, records, and material remains related to such a property.	Potentially applicable if historic properties are potentially affected by remedial activities.
Presence of archaeologically or historically sensitive area	Archaeological and Historic Preservation Act. 16 USC 469a-1	Provides for the preservation of historical and archaeological data that may be irreparably lost as a result of a federally-approved project and mandates only preservation of the data.	Potentially applicable if historical and archaeological data may be irreparably lost by implementation of the remedial activities.
Presence of floodplain as designated on FEMA Flood Insurance map	44 CFR 60.3(d)(2) and (3)	Prohibits encroachments that would result in any increase in flood levels during occurrence of base flood discharge.	FEMA flood rise requirements are considered relevant and appropriate requirements for remedial actions.

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Location	Regulation/Citation	Criterion/Standard	Comments
Presence of floodplain as designated on map	Federal Emergency Management Act regulations at 44 CFR 9 (which sets forth the policy, procedure and responsibilities to implement and enforce Executive Orders 11988 (Management of Floodplain) To Be Considered , as amended by E.O. 13690 and 11990 (Protection of Wetlands) To Be Considered	Requirements for Flood Plain Management Regulations Areas Requires measures to reduce the risk of flood loss, minimize impact of floods, and restore and preserve the natural and beneficial values of floodplains.	Relevant and appropriate for assessing impacts, if any, to the floodplain and flood storage from the response action and developing compensatory mitigation that is beneficial to floodplain values.
Presence of wetlands	Executive Order for Wetlands Protection. Executive Order 11990 (1977) To Be Considered	Requires measures to avoid adversely impacting wetlands whenever possible, minimize wetland destruction, and preserve the value of wetlands.	Relevant and appropriate in assessing impacts to wetlands, if any, from the response action and for developing appropriate compensatory mitigation for the project.
Presence of state-listed threatened or endangered wildlife species	Protection and Conservation Programs ORS. 496.171 to 496.182. Survival Guidelines OAR 635-100-0135	Survival Guidelines are rules for state agency actions affecting species listed under Oregon's Threatened or Endangered Wildlife Species law.	Substantive requirements of Survival Guidelines relevant and appropriate to remedial activities affecting state-listed species.
Presence of essential fish habitat	Magnuson-Stevens Fishery Conservation and Management Act. 50 CFR Part.600.920	Evaluation of impacts to Essential Fish Habitat (EFH) is necessary for activities that may adversely affect EFH.	Potentially applicable if the removal action may adversely affect EFH.
Presence of federally endangered or threatened species	Endangered Species Act. 16 USC 1536 (a)(2), Listing of endangered or threatened species per 50 CFR 17.11 and 17.12 or designation of critical habitat of such species listed in 50 CFR 17.95	Actions authorized, funded, or carried out by federal agencies may not jeopardize the continued existence of endangered or threatened species or result in the adverse modification of species' critical habitat. Agencies are to avoid jeopardy or take appropriate mitigation measures to avoid jeopardy.	Applicable to remedial actions that may adversely impact endangered or threatened species or critical habitat that are present at the site. Listed species are found at the Site, and critical habitat for listed salmonids has been designated within the site. Coordination will occur with NMFS and USFWS regarding actions to be taken, their impacts on listed species, and measures that will be taken to reduce, minimize, or avoid such impacts so as not to jeopardize the continued existence or adversely modify critical habitat. If needed, take permits will be obtained.